

3' to the selectable marker for each of the three reading frames for the porcine α -1,3 galactosyltransferase gene.

REMARKS

Status of the claims

Claims 1-68 are pending in this application. Applicants submitted five new claims in a Supplemental Amendment dated October 12, 1999. These claims were by inadvertent error numbered as claims 68-72. The above amendments, which renumber these claims as claims 69-73, serve to correct the error.

1. The §102 rejection

Claims 1-3 and 68 stand rejected under 35 U.S.C. §102(e) as being anticipated by Sandrin et al., U.S. Patent 5,821,117 (A). Applicants respectfully traverse this rejection.

Applicants submit that Sandrin et al. is not a prior art reference against the instant application. The instant application has a priority date of January 27, 1994 and Sandrin et al. has a U.S. filing date of March 15, 1994. While Sandrin et al. has a priority date of March 16, 1993, the filing date of a patent application in Australia, the Examiner is reminded that “[t]he foreign priority date of the reference under 35 U.S.C. §119(a) – (d) cannot be used to antedate the application filing date” in order to support a 35 U.S.C. §102(e) rejection. See M.P.E.P. §2136.02 (I).

In view of this consideration, Applicants respectfully request that the rejection under 35 U.S.C. §102(e) be withdrawn.

2. The §103(a) rejection

Claims 46-51 and 67 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sandrin et al., US Patent, 5,821,117(a) and Galili, 1993 (U). Applicants respectfully traverse this rejection.

Applicants submit that, for the reasons given above, Sandrin et al. is not a prior art reference against the instant application.

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In view of the above consideration, Applicants request withdrawal of the rejection under 35 U.S.C. §103(a).

CONCLUSIONS

Applicants submit that claims 1-3, 46-51, and 67-73 patentably define the invention. Applicants request that the Examiner reconsider the rejections set forth in the Office Action, and permit the pending claims and claims 69-73 to pass to allowance.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicants' undersigned representative can be reached at the telephone number listed below.

No charge is seen to be incurred by the above amendments. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 11/21/99



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